

REGULAR MEETING
BOROUGH COUNCIL
BOROUGH OF RUMSON
December 16, 2014

A regular meeting of the Borough Council of the Borough of Rumson was held in the Charles S. Callman Courtroom of Borough Hall on December 16, 2014 and was called to order by Mayor John E. Ekdahl at 4:00 p.m.

Pledge of Allegiance.

Present: Mayor Ekdahl, Councilwoman Atwell, Councilmen Day, Hemphill, Rubin and Shanley.

Absent: Councilman Broderick.

Thomas S. Rogers, Municipal Clerk/Administrator, was present.

Martin M. Barger, Borough Attorney, was present.

David Marks of T & M Associates was present.

The Mayor declared a quorum present and announced that the notice requirements of the Open Public Meetings Act had been met by the posting and mailing of a schedule of all regular and work meetings of the Borough Council for the year 2014 to the *Asbury Park Press* and the *Two River Times*.

On motion by Councilman Rubin, seconded by Councilman Hemphill, the minutes of the previous meeting were approved as written, copies having been forwarded to all Council members. All in favor.

COMMUNICATIONS:

LETTER FROM COUNCILMAN FRANK E. SHANLEY ADVISING THE MAYOR OF HIS RESIGNATION FROM THE RUMSON BOROUGH COUNCIL EFFECTIVE DECEMBER 31, 2014:

The Municipal Clerk/Administrator read the following letter from Councilman Frank E. Shanley advising of his resignation as Councilman effective December 31, 2014:

Dear Mayor Ekdahl,

I am hereby submitting my resignation as a member of the Rumson Borough Council effective December 31, 2014.

I have enjoyed my association with the Borough Council, especially working with you, my fellow Council members and all the Borough employees (especially the Department of Public Works), over the nine years. I believe we have accomplished a great deal over these years and Rumson is a better place today through collective efforts.

I have considered it an honor and a privilege to serve the residents of Rumson as one of their Councilmen and I leave knowing our Borough government is in the best of hands.

With my very best personal regards and thanks to you for your dedication to the Borough of Rumson.

Sincerely,

Frank E. Shanley

Councilman Rubin thanked Councilman Shanley for all his dedication, hard work and caring for the Borough of Rumson.

On motion by Councilman Rubin, seconded by Councilman Hemphill, Councilman Shanley's letter of resignation from the Council was ordered received with regret on the following roll call vote:

In the affirmative: Atwell, Day, Hemphill, Rubin and Shanley.

In the negative: None.

Absent: Broderick.

Mayor Ekdahl also thanked Councilman Shanley for the wonderful job over his nine years of service to the Borough and stated that he hated to see him go.

LETTER FROM THE STATE OF NJ DEP EXTENDING NICHOLAS ADAMSON'S FRESHWATER WETLANDS TRANSITIONING AREA WAIVER TO FEBRUARY 10, 2018 FOR PROPERTY LOCATED AT 26 AND 28 OSPREY LANE:

The Municipal Clerk/Administrator advised of a letter from the State of New Jersey Department of Environmental Protection, Division of Land Use Regulation to Nicholas Adamson advising of the approval of the requested extension of their Freshwater Wetlands Transition Area Waiver to February 10, 2018 for property located at 26 and 28 Osprey Lane.

On motion by Councilman Day, seconded by Councilman Rubin, this communication was ordered received. All in favor.

COMMITTEE REPORTS:

Councilman Shanley reported that the Rumson Department of Public Works 2014 Toy Drive received 520 toys this year to be given to Family & Children's Services in Long Branch and the American Red Cross. He stated that the members of the DPW volunteered on their own time to collect, wrap and distribute the toys.

On behalf of the Mayor and Council, Councilman Shanley congratulated the DPW employees for their hard work and holiday spirit. He also thanked the Borough employees and Rumson residents for their generosity that made the 2014 Toy Drive a success.

Mayor Ekdahl thanked Councilman Shanley for his report.

UNFINISHED BUSINESS:

None.

NEW BUSINESS:

RESOLUTION 2014-1216-166 AUTHORIZING THE REFUND OF REDEMPTION MONIES TO TOWER FUND SERVICES AS CUSTODIAN FOR EBURY FUND 1NJ, LLC FOR MUNICIPAL TAX SALE CERTIFICATE #14-00004 FOR PROPERTY KNOWN AS 18 MEADOWBROOK AVENUE:

The Municipal Clerk/Administrator advised that the lien for the 18 Meadowbrook Avenue property had been sold at the 2014 Borough Tax Sale and was now being redeemed.

2014-1216-166

Councilman Rubin offered the following resolution and moved its adoption:

**RESOLUTION AUTHORIZING REFUND OF REDEMPTION MONIES
TO EBURY FUND 1NJ, LLC**

WHEREAS, at the Municipal Tax Sale held on December 2, 2014, a lien was sold on Block 50, Lot 24, also known as 18 Meadowbrook Avenue in Rumson, for 2013 delinquent sewer charges; and

WHEREAS, this lien, known as Tax Sale Certificate #14-00004, was sold to Tower Fund Services as Custodian for Ebury Fund 1NJ, LLC, for a \$1,300.00 premium; and

WHEREAS, on behalf of the property owner, Guy Fleming, Lereta LLC has effected redemption of Certificate #14-00004 in the amount of \$1,023.74;

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Rumson hereby authorize the Chief Financial Officer to issue a check in the amount of \$2,323.74 payable to Tower Fund Services as Custodian for Ebury Fund 1NJ, LLC, PO Box 37695, Baltimore, MD 21297-3695 for the redemption of Tax Sale Certificate #14-00004; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the Chief Financial Officer/Tax Collector.

Resolution seconded by Councilman Shanley and carried on the following roll call vote:

In the affirmative: Atwell, Day, Hemphill, Rubin and Shanley.

In the negative: None.

Absent: Broderick.

RESOLUTION 2014-1216-167 DECLARING THE BOROUGH'S INTENT TO FULLY COMPLY WITH ITS CURRENT AND FUTURE MOUNT LAUREL OBLIGATIONS AND TO SERVE AS THE "CATALYST FOR CHANGE" TO RENDER ANY MOUNT LAUREL LAWSUITS AS "UNNECESSARY LITIGATION:"

2014-1216-167

RESOLUTION OF THE BOROUGH OF RUMSON, COUNTY OF MONMOUTH, DECLARING ITS INTENT TO FULLY COMPLY WITH ITS CURRENT AND FUTURE MOUNT LAUREL OBLIGATIONS AND TO SERVE AS THE "CATALYST FOR CHANGE" TO RENDER ANY MOUNT LAUREL LAWSUITS AS "UNNECESSARY LITIGATION"

WHEREAS, in So. Burlington County N.A.A.C.P. v. Tp. of Mount Laurel, 92 N.J. 158, 279-80 (1983) ("Mount Laurel II"), the New Jersey Supreme Court ruled, subject to several other limitations, that in order for a plaintiff to be entitled to a builder's remedy, it must "succeed in litigation;" and

WHEREAS, in Toll Bros. Inc. v. Tp. of W. Windsor, 173 N.J. 502, 507 (2002), the Supreme Court ruled that in order for a developer to succeed in litigation, it must not only prove that the municipality failed to create a realistic opportunity to satisfy its affordable housing obligation, but also must be the "catalyst for change;" and

WHEREAS, on September 26, 2013, the Supreme Court released In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 215 N.J. 578 (2013) which completely invalidated the Round 3 regulations adopted in 2008 by the New Jersey Council on Affordable Housing ("COAH"); and

WHEREAS, on March 14, 2014, the Supreme Court issued an order directing COAH to propose new Round 3 regulations on or before May 1, 2014 and to adopt them by October 22, 2014; and

WHEREAS, the March 14, 2014 Order further provided that, if COAH failed to meet these deadlines, the Court would entertain a Motion in Aid of Litigant's Rights which could include an application for the right, on a case-by-case basis, to file a builder's remedy suit against a municipality under COAH's jurisdiction, such as the Borough; and

WHEREAS, on April 30, 2014, in accordance with the March 14, 2014 Order, COAH proposed Round 3 regulations and published them in the New Jersey Register on June 2, 2014; and

WHEREAS, pursuant to these proposed regulations, the Borough's proposed affordable housing obligation would be 19 units, consisting of an 11-unit rehabilitation obligation, a zero-unit unmet prior round obligation, and a 8-unit prospective Round 3 obligation; and

WHEREAS, COAH accepted public comments on the proposed Round 3 regulations until August 1, 2014, and indeed received roughly 3,000 comments; and

WHEREAS, on October 20, 2014, the COAH board met to consider adopting the proposed regulations; and

WHEREAS, the COAH board reached a 3-3 deadlock and therefore did not adopt the proposed regulations; and

WHEREAS, COAH therefore failed to meet the Supreme Court's October 22, 2014 deadline; and

WHEREAS, COAH's failure to adopt the proposed regulations has left the Borough in a continuing state of limbo despite its commitment to satisfying its obligations voluntarily and without the need for litigation; and

WHEREAS, on October 31, 2014, Fair Share Housing Center ("FSHC") filed a Motion In Aid of Litigant's Rights urging the Supreme Court, among other things, to direct trial judges, instead of COAH to establish standards with which municipalities must comply; and

WHEREAS, FSHC's motion included an alternative fair share calculation for each municipality, further highlighting the uncertainty of the framework with which municipalities must ultimately comply; and

WHEREAS, pursuant to the alternative calculations furnished by FSHC, the Borough would have an obligation of 628 units consisting of an zero unit rehabilitation obligation, a 268 unit prior round obligation and a 360 unit Round 3 obligation; and

WHEREAS, as a result of future regulations, litigation, and/or legislation, it is entirely possible that the Borough's obligation may indeed differ from those proposed by COAH or advocated by FSHC; and

WHEREAS, indeed, new laws may reduce the obligations of the Borough under COAH's prior round regulations; and

WHEREAS, in light of all this uncertainty, it is possible that the Borough may not be in compliance with its affordable housing obligations; and

WHEREAS, regardless of whatever its obligation is ultimately assigned, **the Borough remains committed to comply voluntarily with its obligations**; and

WHEREAS, the Borough brought itself under COAH's jurisdiction because all three branches of government preferred COAH's administrative process to resolve disputes over affordable housing matters rather than litigation; and

WHEREAS, the Borough wishes to be in a position to complete its efforts to comply voluntarily once its obligations are defined; and

WHEREAS, accordingly, the Borough wishes to be in a position to seek immunity from a trial judge if the Court should rule that trial judges should perform COAH's functions so that the Borough can complete its efforts to comply voluntarily with whatever standards the trial judge may determine are appropriate; and

WHEREAS, the Borough herein intends to make its intentions inescapably clear to the public and all concerned.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rumson as follows:

1. The Borough formally stipulates that, given all the uncertainty in the law, it is entirely possible that it may not be in compliance with its affordable housing obligations.
2. The Borough hereby reaffirms its commitment to satisfy its affordable housing obligations, however they may ultimately be defined, voluntarily and in the absence of any Mount Laurel lawsuits.
3. Once its affordable housing obligations are defined, the Borough directs its legal and planning professionals to take all reasonable and necessary action to enable it and its Planning Board to satisfy those obligations expeditiously.
4. The Borough clerk is hereby directed to place this Resolution on file in Borough Hall to put the public and all interested parties on notice of the formal commitments herein.
5. The Borough hereby authorizes its Special Mount Laurel Council to use this resolution as it sees fit to maintain the current immunity from all exclusionary zoning suits.
6. This Resolution shall take effect immediately.

The above Resolution was moved for adoption by Councilman Rubin. Motion seconded by Councilman Day and carried on the following roll call vote:

In the affirmative: Atwell, Day, Hemphill, Rubin and Shanley.

In the negative: None.

Absent: Broderick.

ANNOUNCEMENTS BY THE MAYOR:

Mayor Ekdahl made the following Announcements:

1. Hanukkah begins at sundown this evening, December 16th. I would like to wish all our Jewish friends a Happy Hanukkah.
2. Borough Hall will be closed Thursday, December 25th and Friday, December 26th in observance of the Christmas holiday.
3. There will be no garbage collection on Christmas Day, however there **will** be collection on Friday, December 26th.
4. The Borough Council will meet on Thursday, January 1, 2015 at Bingham Hall at 11:30 a.m. for the Continued meeting and at 12:00 noon for the Annual Re-organization meeting.

Have a safe and Happy Holiday Season.

Thank you.

FINANCIAL OFFICER’S REPORT:

The Financial Officer’s Reports disclosed the following as of November 30, 2014:

Borough of Rumson
Chief Financial Officer Report to the Mayor and Council

Analysis of Cash for the Month Ending: November 30, 2014

Funds	Beginning Balance	Cash Receipts	Disbursements	Ending Balance
1. CURRENT FUND				
Current Fund Checking	\$ 20,455,083.56	\$ 9,483,971.46	\$ (8,498,779.22)	\$ 21,440,275.80
Change Funds	\$ 300.00	\$	\$	\$ 300.00
Certificates of Deposit	\$ 0.00	\$	\$	\$ —
Total Current Fund	\$ 20,455,383.56	\$ 9,483,971.46	\$ (8,498,779.22)	\$ 21,440,575.80

2. CAPITAL FUND					
Capital Fund Checking	\$ 2,908,640.20	\$ 0.00	\$ (21,000.00)	\$ 2,887,640.20	
2007 Capital Improvement Bond Proceeds	\$ 165,270.83	\$ 0.00	\$ 0.00	\$ 165,270.83	
Total Capital Fund	\$ 3,073,911.03	\$ 0.00	\$ (21,000.00)	\$ 3,052,911.03	
3. PAYROLL & PAYROLL AGENCY					
Payroll	\$ 2,981.86	\$ 287,961.14	\$ (287,961.14)	\$ 2,981.86	
Payroll Agency	\$ 10,798.55	\$ 169,867.51	\$ (169,867.51)	\$ 10,798.55	
Total Payroll & Payroll Agency	\$ 13,780.41	\$ 457,828.65	\$ (457,828.65)	\$ 13,780.41	
4. TRUST FUNDS					
Trust Fund Checking	\$ 803,612.90	\$ 6,105.25	\$ (1,494.83)	\$ 808,223.32	
Unemployment Trust	\$ 105,326.20	\$ 69.46	\$ 0.00	\$ 105,395.66	
Recreation Trust	\$ 350,423.82	\$ 17,610.19	\$ (49,371.56)	\$ 318,662.45	
C.O.A.H. Trust	\$ 1,617,652.56	\$ 22,290.97	\$ (162.75)	\$ 1,639,780.78	
Law Enforcement Trust Fund	\$ 432.35	\$.28	\$ 0.00	\$ 432.63	
D.A.R.E.	\$ 9,285.64	\$ 3,640.70	\$ 0.00	\$ 12,926.34	
Cafeteria Plan	\$ 8,726.09	\$ 0.00	\$ (1,553.83)	\$ 7,172.26	
Animal Control Trust Fund	\$ 27,829.06	\$ 13.00	\$ (609.80)	\$ 27,232.26	
Public Assistance Trust Fund	\$ 839.35	\$ 0.00	\$ 0.00	\$ 839.35	
Total Trust Funds	\$ 2,924,127.97	\$ 49,729.85	\$ (53,192.77)	\$ 2,920,665.05	
TOTAL ALL FUNDS	\$ 26,467,202.97	\$ 9,991,529.96	\$ (9,030,800.64)	\$ 27,427,932.29	

Respectfully submitted by:

Helen L. Graves

Helen L. Graves, Chief Financial Officer

On motion by Councilman Hemphill, seconded by Councilman Shanley, the Financial Officer's Report was ordered received and carried on the following roll call vote:

In the affirmative: Atwell, Day, Hemphill, Rubin and Shanley.

In the negative: None.

Absent: Broderick.

CONSIDERATION OF BILLS AND CLAIMS (RESOLUTION):

Councilman Hemphill offered the following resolution and moved its adoption:

\$	371.75	Robert Savoth
\$	371.75	Animal Control Account
\$	4,950.00	CTM Bulk Handlers Inc
\$	4,950.00	Capital Account
\$	531.50	Jeffrey R Surenian & Assoc LLC
\$	531.50	COAH Trust Fund
\$	1,001.00	Action Office Supplies
\$	11,571.62	Allied Oil LLC
\$	164.97	All Hands Fire Equipment LLC
\$	400.00	James P Ammaturo
\$	360.00	Robert Anderson
\$	278.00	Asbury Park Press
\$	39.94	Atlantic Plumbing Supply Corp
\$	500.00	Peter J Barnett
\$	599.00	Michael Baron
\$	1,166.35	Bob's Uniform Shop
\$	700,00.00	Borough of Rumson Capital Acct
\$	24,710.00	Borough of Fair Haven
\$	255.00	Boxwood Gardens
\$	72.00	Butch's Auto Car Wash Inc
\$	525.00	Central Boiler Repair Co Inc
\$	280.00	Certified Speedometer Service
\$	599.00	Durant Gogger

\$	65.40	Cooper Electric Supply Co
\$	3,475.60	CSM Corp
\$	403.00	Custom Tire Associates
\$	360.00	Larry D'Angelo
\$	412.41	Direct Energy Business
\$	165.00	Drager Safety Diagnostics Inc
\$	143.40	East Coast Energy Products
\$	2,323.74	Ebury Fund 1NJ LLC
\$	747.96	Edwards Tire Co Inc
\$	660.00	Elite Equipment Services
\$	599.00	Robert Eyerkuss
\$	400.00	Nick A Fabiano Jr
\$	72.65	Fair Haven Hardware Inc
\$	624.36	Fastenal Co
\$	31.99	F & C Automotive Supply Inc
\$	400.00	Eugene F Ferry
\$	599.00	Donna Gialanella
\$	599.00	Stacey Giglio
\$	360.00	Robert E Halligan
\$	712.00	Hutchinson Plumbing Heating
\$	8,033.50	JCP&L
\$	280.20	Johnny on the Spot Inc
\$	129.00	John Deere Landscaping
\$	14,292.52	Kaldor Emergency Lights LLC
\$	599.00	Lauren Kammerer
\$	272.70	Gerald P Kelly
\$	84.55	Kepwel Natural Spring Water
\$	360.00	Daryl J Kochel
\$	99.00	Lawyers Diary and Manual
\$	486.17	Lawes
\$	360.00	Timothy Leonard
\$	859.07	Level 3 Communications LLC
\$	599.00	Norman Long
\$	360.00	Robert J Marass
\$	360.00	Vito W Marra
\$	599.00	Darren McConnell
\$	360.00	James Mellish
\$	599.00	Robert Micieli
\$	919.35	Mid-Atlantic Truck Centre Inc
\$	360.00	Frederick Migliaccio
\$	15,735.24	Treasurer County of Monmouth
\$	30.00	Monmouth Cty Police Academy
\$	599.00	Edward Moran
\$	622.30	Naylor's Auto Parts
\$	9,068.80	New Jersey American Water
\$	599.00	Mary F Nichols
\$	599.00	Dennis Nitka
\$	599.00	Jeffrey Nixon
\$	218.17	NJ Natural Gas Co
\$	146.88	One Call Concepts
\$	3,350.00	Oswald Enterprises Inc
\$	12,911.50	Overbrook Farm
\$	1,635.60	Paramount
\$	1,079.00	Scott Paterson
\$	357.96	PEP Express Parts
\$	980.00	Dennis Peras
\$	740.00	Powerhouse Signworks
\$	1,091.47	Thomas S Rogers
\$	280.00	Root-X
\$	1,200.00	Rumson Elementary School Dist
\$	10,000.00	Rumson Recreation
\$	162.00	Ryser's Landscape Supply
\$	599.00	Chris Santora
\$	599.00	Jennifer E Wargo

\$	48.00	Seaboard Welding Supply Inc
\$	315.00	Ronald J Sickler
\$	500.00	State Shorthand Reporting Serv
\$	2,460.23	Staples Advantage
\$	270.97	Stavola Asphalt Co Inc
\$	442.00	Michael B Steib PA
\$	400.00	Stewart's Plumbing
\$	599.00	Jeremy Susser
\$	2,120.00	Targeted Technologies LLC
\$	18.39	The Hose Shop Inc
\$	599.00	Joseph Truex
\$	804.23	The Two River Times
\$	2,330,778.41	Two River Community Bank
\$	1,000.00	United States Postage Service
\$	283.18	Verizon
\$	160.04	Verizon Wireless
\$	134.99	Verizon Business Fios
\$	599.00	Michael J Volker
\$	54.00	Wageworks
\$	389.43	George Wall Lincoln
\$	540.00	Mark Wellner
\$	599.00	John Wibbelsman
\$	599.00	Christopher J York
\$	599.00	Donald York
\$	6,975.00	Borough of Fair Haven
\$	974.00	Max Ross
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\$	3,201,153.24	Current Fund
\$	100.00	Legalized Games of Chance
\$	1,225.00	Thomas S Rogers
\$	400.00	Siciliano Landscape Co LLC
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\$	1,725.00	Endowment Inc Account
\$	7,760.16	Athlete's Alley
\$	615.00	Dorothy T Bailey
\$	775.00	Christopher J Champeau
\$	190.00	Samuel Jake Chandler
\$	260.00	Luke Distefano
\$	160.00	Olivia Rae Distefano
\$	210.00	Liam Donohue
\$	15.00	Brendan Durney
\$	420.00	Richard E Frick
\$	200.00	John Gil
\$	60.00	Ryan Patrick Kearney
\$	250.00	Thomas Keyes
\$	7.47	Lowe's
\$	905.40	Sarah Orsay
\$	60.00	Bennett Todd Pelino
\$	25.00	Sam Sapnar
\$	555.00	Kathleen Shanley
\$	25.00	Brianna Worobel
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\$	12,493.03	Recreation Account
\$	13,588.00	Rumson Country Club
\$	624.00	Michael B Steib PA
\$	1,402.21	T & M Associates
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\$	15,614.21	Trust Account
\$	1,160.00	Current Fund Appropriations
\$	3,199,993.24	Current Fund Appropriations
\$	371.75	Animal Control Fund Expenses
\$	4,950.00	Capital Fund Disbursements
\$	1,725.00	Endowment Disbursements

\$	12,493.03	Recreation Disbursements
\$	16,145.71	Trust Fund – Other Expenses
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\$	3,236,838.73	Total Of All Funds

Resolution seconded by Councilman Rubin and carried on the following roll call vote:

In the affirmative: Atwell, Day, Hemphill, Rubin and Shanley.

In the negative: None.

Absent: Broderick.

COMMENTS FROM THE COUNCIL:

The Mayor afforded the members of the Council an opportunity to be heard at this time and no one responded.

COMMENTS FROM THE PUBLIC:

The Mayor afforded the public an opportunity to be heard at this time and no one responded.

ADJOURNMENT:

On motion by Councilman Rubin, seconded by Councilman Hemphill, the meeting adjourned at 4:07 p.m. All in favor.

Respectfully submitted,

Thomas S. Rogers, R.M.C.
Municipal Clerk/Administrator